

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

October 3, 2006

CALL TO PODIUM:

Greg Ossont, Director
Planning and Code
Administration

RESPONSIBLE STAFF:

Greg Ossont, Director
Planning and Code
Administration

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
X	Policy Discussion
	Work Session Discussion Item
	Other:

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	11/16/2005
	11/23/2005
	12/14/2006
	12/21/2006
Hearing Date	01/03/2006
Record Held Open	09/27/2006
Policy Discussion	10/03/2006

TITLE: Policy Discussion

T-372 - A Proposal to Amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to Create New §24-172A, Entitled, "Amendment to Site Development Plan," so as to Revise Requirements for Amending Site Plans

SUPPORTING BACKGROUND:

T-372 was the subject of a Joint Public Hearing on January 3, 2006, and joint work session on February 13, 2006.

The proposed text amendment would allow staff to create a "consent agenda" for the Planning Commission, as well as allow small residential additions to be processed as minor amendments for properties that are subject to a site development plan (i.e. single family homes in the MXD zone).

This text amendment does not apply to older properties which are not subject to site development plans.

At the regular meeting on September 6, 2006, the Planning Commission made a recommendation to the Mayor and City Council on T-372.

For your review. A copy of the staff comments provided for the Planning Commission's recommendation is attached.

Attachments:

Draft Ordinance

Staff Comments from PC Recommendation

Index of Memoranda and Exhibits

(Originally scheduled for December 5, 2005. Meeting which was cancelled due to inclement weather)

DESIRED OUTCOME:

Conduct Policy Discussion. The ordinance is ready for final action.

INDEX OF MEMORANDA

T-372

1. Application
2. Draft Ordinance
3. Notice of December 5, 2005, joint public hearing to interested parties. Labels for people notified.
4. Letter to Gaithersburg Gazette dated November 10, 2005, requesting a Legal Ad for November 16 and November 23, 2005, issues. Fax and email printed communications are same.
5. Mayor and Council Cover Sheet for December 5, 2005, Joint Public Hearing
6. Letter to Gaithersburg Gazette dated December 7, 2005, requesting a Legal Ad for December 14 and 21, 2005, issues for Rescheduled Joint Public Hearing on January 3, 2006. Fax and email printed communications re same.
7. Notice of January 3, 2006, joint public hearing to interested parties. Labels for people notified. Rescheduled Date of Joint public hearing
8. Mayor and Council Cover Sheet for January 3, 2005, Joint Public Hearing
9. Typical additions to homes that are less than fifteen percent
10. Minutes of the January 3, 2006, Joint Public Hearing at the Mayor and City Council Meeting
11. E-mail from Cathy Drzyzgula
12. Transcript of the January 3, 2006, Joint Public Hearing
13. February 13, 2006, Joint Work Session material
14. Staff Comments for discussion item presented to Planning Commission, August 2, 2006

15. Comparative discussion item exhibit presented to Planning Commission, August 2, 2006
16. Red-Line version of Draft Ordinance
17. Staff Comments for Recommendation to M&C for Planning Commission Meeting on September 6, 2006
18. Planning Commission CPC
19. Planning Commission Revised Text Amendment
20. Memorandum to the Mayor and City Council, dated September 7, 2006, from Planning and Code Director Ossont
21. Minutes of the August 2, 2006, Planning Commission Meeting

STAFF COMMENTS FOR PLANNING COMMISSION

MEETING DATE: September 6, 2006

TEXT AMENDMENT: **T-372**

TITLE: **AMENDMENT TO SITE DEVELOPMENT
PLANS**

REQUEST: **Recommendation**

ADDRESS: N/A

ZONE: N/A

APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER: (as
applicable)

STAFF PERSON: Greg Ossont, Director
Planning and Code Administration

Enclosures:

Staff Comments
Exhibit 2: Draft Text Amendment Ordinance



STAFF COMMENTS

A joint public hearing was held on January 3, 2006. A joint work session was held on February 13, 2006. The Planning Commission record remains open. There are thirteen exhibits in the record including background material from the joint public hearing and work session.

This is a proposal to amend Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

Staff has been asked to review the procedures related to amending site development plans and the thresholds for minor amendment (staff approvals) and consent items. Upon review, it was determined that although the Planning Commission's Rules of Procedures allow for a "consent agenda," nothing in the zoning ordinance provides standards for "consent items."

Further, it was noted that the following subsection, which establishes standards for minor amendments, has caused concern with both staff and the Commission:

Section 24-172(c)(1)(d)

"Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings."

In practice, this subsection prevents any modification to a structure which "adds onto" or expands a footprint from being classified as a minor amendment and undergoing a staff approval process. As you are aware, a number of the City's residential neighborhoods are under the purview of site development plans. As a result, any modification which adds onto a house in these neighborhoods exceeds the threshold for a minor amendment and triggers a full hearing and amendment to final plan review.

The proposed text amendment provides new language which establishes the ability to create a consent agenda as well as installs a threshold to distinguish the appropriate approval process for single-family dwelling additions. The text amendment essentially creates a new section (24-172A) for amendments to site development plans. In other words, subsection B of Section 24-172, has been broken out into a new Section 24-172A.

The new 24-172A, includes the following new language:

(a) Amendment requests, other than minor amendment. *Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.*

This language provides language which enables the Planning Director to create a "consent agenda" for the Commission. If the application received is not a minor amendment, as later described in the section, or does not require a full public hearing before the Commission, then the item could be placed on the agenda as a "consent item." Examples of a consent item could be sign packages, a dumpster enclosure, temporary sales trailer for a new development or the fulfillment of a previous condition place on an applicant by the Commission. In the event that

the Commission, in their review of the consent agenda, notes an application that the Commission believes should not be a consent item, the Commission may vote to place the item on the regular site plan agenda with the customary advertising period and notification requirements.

The only other change to the existing ordinance is the introduction of a new standard for minor amendments. This language has been inserted as subsection (e) and states:

(e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/ or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.

If an application is submitted for a single-family dwelling that falls under the purview of a site development plan, and the proposed addition does not increase the square footage of the structure by more than 15%, the application could be reviewed as a minor amendment (staff approval). Please note the existing standards requiring conformity to applicable zoning regulations, general harmony with architecture and design characteristics, would still apply to a minor amendment. Additionally, the existing language that provides notification to abutting and confronting property owners and their respective rights to appeal decisions of the Planning Director to the Planning Commission remain in place.

During the Planning Commission's meeting on August 2, 2006, the Commission directed staff to include language requiring notice for consent agenda items. Staff has inserted language to require the same notification requirement as a minor amendment. Additionally, staff has modified subsection 24-172A(b)(3)(d) for further clarification as discussed during the August 2, 2006 meeting. A redlined version of the text amendment is attached to highlight these changes.

The Planning Commission record closed on August 30, 2006 and no additional exhibits have been added since the August 2nd meeting.

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: David Humpton, City Manager

FROM: Greg Ossont, Director
Planning and Code Administration

DATE: September 7, 2006

SUBJECT: T-372 -- Amendment to Chapter 24 of the City Code (City Zoning Ordinance), Article V, Entitled, "Site Development Plans," §24-172, Entitled, "Compliance With and Changes in Plan," and to create new §24-172A, Entitled, "Amendment to Site Development Plan," so as to revise requirements for amending site plans.

At its regular meeting on September 6, 2006, the Planning Commission discussed the proposed text amendment with modifications and noted the following:

- 1) The ability to establish a consent agenda is desirable to expedite applications that do not warrant a full review by the Commission but such applications should require a notification requirement consistent with the notice requirements of minor amendments.
- 2) It is in the interest of the City and its residents to facilitate applications for small residential additions without complex application procedures and full hearings and allow these applications to be processed and approved as minor amendments to site development plans.

At its regular meeting on September 6, 2006, the Planning Commission made the following motion:

Vice-Chair Levy moved, seconded by Commissioner Kaufman, to recommend ADOPTION of Text Amendment T-372 to the Mayor and City Council, with revisions as reflected on Exhibit 16.

Vote: 5-0



ORDINANCE No. _____

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE
(CITY ZONING ORDINANCE), ARTICLE V, ENTITLED,
"SITE DEVELOPMENT PLANS," §24-172, ENTITLED, "COMPLIANCE WITH AND
CHANGES IN PLAN," AND TO CREATE NEW §24-172A, ENTITLED,
"AMENDMENT TO SITE DEVELOPMENT PLAN," SO AS TO REVISE
REQUIREMENTS FOR AMENDING SITE PLANS

Text Amendment T-372

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg, Maryland, in public meeting assembled, that Chapter 24 of the City Code (City Zoning Ordinance), Article V, §24-172, and create new §24-172A, are hereby amended to read as follows:

ARTICLE V. SITE DEVELOPMENT PLANS

*

*

*



Sec. 24-172. Compliance with plan [and changes in plan].

(a) *Compliance requirements.* Land which is the subject of an approved site development plan shall be developed and used only in accordance with the approved plan or in accordance with amendments to said plan approved in accord with the provisions of this chapter. The approvals of site development plans or amendments thereto may contain such conditions as are necessary to ensure compliance with the requirements of this chapter or which are in the public interest. Use and development of land which is the subject of the site development plan or the construction of a building or structure thereon in a manner not in compliance with that plan is prohibited and shall constitute a violation of this chapter.

~~[(b) *Requests for amendment of site development plans.* A request for amendment shall be accompanied by so much of the information required by section 24-169 as is necessary to properly detail and permit action upon the request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee for processing the request. Minor amendment requests shall~~

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Added to existing law by original bill.

Deleted from existing law by original bill

Amendment Proposed by Planning Commission.

Proposed Deletion from existing law or the bill by Planning Commission.

Existing law unaffected by bill.

~~be those requests specified in subsection (c) of this section and shall be acted upon by the planning director or his/her designee. The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of abutting and confronting properties of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department. All amendment requests, except for minor amendments, shall be subject to public hearing and a decision by the city planning commission.]~~

~~[(c) Minor amendment requests.~~

~~(1) Requests for minor amendment shall be filed with and acted upon by the planning director or his/her designee. Requests for minor amendment include:~~

~~(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.~~

~~(b) Resiting of a lot with a house type previously approved by the city planning commission.~~

~~(c) Approval of retaining walls/fences and other enclosures.~~

~~(d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than item (b) above).~~

~~(e) Minor signage changes or additions.~~

~~(f) Minor landscaping or pedestrian and sidewalk access revisions.~~

~~(g) Addition of easements and parking areas or correction of easement and parking area locations.~~

~~(h) Revisions to forest conservation plan.~~

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- (i) ~~Revisions or amendments delegated by the city planning commission.~~
- (2) ~~Public hearings of the planning commission are not required for a minor amendment, provided, however, the planning director or his/her designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.~~
- (3) ~~A minor amendment may only be granted if:~~
 - (a) ~~The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and~~
 - (b) ~~The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and~~
 - (c) ~~The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.~~
- (4) ~~The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public hearing on the decision of the planning director, or order written statements and oral argument in lieu of a public hearing. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action.]~~

Sec. 24-172A. Amendment to site development plan.

A request for amendment to an approved site plan shall be accompanied by as much of the information required by section 24-169 as is necessary to properly detail and permit action upon the specific request for amendment. At the time the application for amendment is filed, the applicant shall pay the prescribed fee and

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submit proper application and copies of the amendment proposal for processing the request. All amendment requests, except for minor amendments, shall be subject to a decision by the city planning commission.

(a) Amendment requests, other than minor amendment. Amendment requests that are not minor amendment requests as set forth in subsection (b) of this section, are submitted to the planning commission and may be reviewed under either the consent agenda or the site plan agenda at the decision of the planning director or his/her designee. The planning commission, by a majority vote, may require a consent item to be placed on the site plan agenda with the required notification.

(1) Consent agenda items shall require the applicant to provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.

(b) Minor amendment requests.

(1) Requests for minor amendment shall be filed with the planning director or designee. Minor amendment requests shall be those requests specified in this subsection and shall be acted upon by the planning director or his/her designee.

(2) The applicant for a minor amendment shall provide, by mail or personal delivery, written notice in a form approved by the city planning department to owners of property abutting and confronting the property that is the subject of the amendment request within two (2) business days of filing the request, and shall certify the same to the planning department.

(3) Requests for minor amendment include:

(a) Resiting or relocation of buildings or structures including, but not limited to, garages and accessory structures on not more than three (3) contiguous lots, including moving or rotation of a building or structure's footprint, provided such moving or

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rotation does not shift a building or structure's footprint more than ten (10) feet in any direction.

- (b) Resiting of a lot with a house type previously approved by the city planning commission.
- (c) Approval of retaining walls/fences and other enclosures.
- (d) Minor revisions to building elevation and site plan details which do not add onto buildings or expand footprints of previously approved buildings (other than items (b) ~~[[above]~~ unless it conforms to item~~]]~~ and (e) of this subsection.)
- (e) Minor revisions to a single family detached, semi-detached or attached dwelling that do not increase the square footage of a dwelling as originally constructed on any and/ or all floors by more than fifteen percent (15%) and that have been approved by the homeowners' association of the subject property, if applicable.
- (f) Minor signage changes or additions.
- (g) Minor landscaping or pedestrian and sidewalk access revisions.
- (h) Addition of easements and parking areas or correction of easement and parking area locations.
- (i) Revisions to forest conservation plan.
- (j) Revisions or amendments delegated by the city planning commission.
- (4) Public reviews of the planning commission are not required for a minor amendment, provided, however, the planning director or designee shall, upon request, meet with the applicant and interested parties or consider written comments on the amendment.

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(5) A minor amendment may only be granted if:

- (a) The amendment does not violate the development standards of the property's zoning or increase the lawful nonconformity of any lot or building; and
- (b) The amendment is in general harmony with the architectural and site design characteristics of the approved site development plan; and
- (c) The amendment will not substantially impair the intent, purpose or integrity of the neighborhood or the planning documents for the applicable area.

(6) The decision of the planning director (or designee) may be appealed to the city planning commission if filed with the planning department, in writing, within fifteen (15) days after the decision is mailed by the planning director. The planning commission, in its discretion, may hold a public review on the decision of the planning director, or order written statements and oral argument in lieu of a public review. The planning commission may approve, approve with modification, or disapprove the requested amendment(s) and shall state the reasons for its action in writing.

ADOPTED by the City Council of Gaithersburg, Maryland, this _____ day of _____, 2006.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006. APPROVED/VETOED by the Mayor of the City of Gaithersburg, Maryland this _____ day of _____, 2006.

SIDNEY A. KATZ, MAYOR

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THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the City Council of Gaithersburg, in public meeting assembled, on the _____ day of _____, 2006, and the same was APPROVED/VETOED by the Mayor of the City of Gaithersburg on the _____ day of _____, 2006. This Ordinance will become effective on the _____ day of _____, 2006.

DAVID B. HUMPTON, City Manager

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MEMORANDUM TO: Mayor and City Council

FROM: Greg Ossont, Director
Planning and Code Administration

VIA: David B. Humpton, City Manager

DATE: September 7, 2006

SUBJECT: T-372 – Amendment to Site Development Plans

At the regular meeting on September 6, 2006, the Planning Commission made a recommendation to the Mayor and City Council on T-372. A copy of the CPC is attached (Exhibit 18 of the record file). A revision of the text amendment, with the Planning Commission's suggested changes, is also attached (Exhibit 19). (Please review the revision key at the bottom of Exhibit 19 prior to reading the text. The Planning Commission changes, located on Pages 4 and 5, are also highlighted.) As you may recall, T-372 was the subject of a Joint Public Hearing on January 3, 2006, and joint work session on February 13, 2006.

The proposed text amendment would allow staff to create a "consent agenda" for the Planning Commission, as well as allow small residential additions to be processed as minor amendments for properties that are subject to a site development plan (i.e. single family homes in the MXD zone). This text amendment does not apply to older properties which are not subject to site development plans.

Staff is suggesting the Mayor and City Council announce a closing of the record on T-372 on Wednesday, September 27, 2005, at 5 P.M. during the regular meeting on September 18, 2006. Policy discussion is anticipated for the regular meeting on October 3, 2006.

If you have any questions, please contact me directly at 301-258-6330 or gossont@gaithersburgmd.gov

